

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**JAMES P. KIEL,**

**Case No. 3-:09-cv-433**

**Plaintiff,**

**-vs-**

**District Judge Thomas M. Rose  
Magistrate Judge Sharon L. Ovington**

**DEPARTMENT OF VETERANS  
AFFAIRS, et al.,**

**Defendants.**

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**ENTRY AND ORDER OVERRULING KIEL'S OBJECTIONS (Doc. #4) TO  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS;  
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATIONS (Doc. #3) IN ITS ENTIRETY AND  
TERMINATING THIS CASE**

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On November 17, 2009, Magistrate Judge Ovington filed a Report and Recommendations recommending that this case be dismissed without prejudice because this Court lacks subject matter jurisdiction. Plaintiff James P. Kiel ("Kiel") filed a "Notice of Objections To Ruling" on November 20, 2009, (doc. #4) and the Defendants have not responded.

The District Judge has made a de novo review of the record and applicable legal authority on this matter pursuant to 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b). The Complaint seeks relief from the Department of Veterans Affairs's decision regarding Kiel's disability benefits and debt collection by the Department. Kiel also alleges denial of due process. This Court lacks subject matter jurisdiction to adjudicate such claims. *See Beamon v. Brown*, 125 F.3d 965, 970-71 (6th Cir. 1997).

Thus, Kiel's Objections to the Magistrate Judge's Report and Recommendations, to the extent that they are objections, are OVERRULED. The Magistrate Judge's Report and Recommendations is ADOPTED IN ITS ENTIRETY. Kiel's Complaint is dismissed without prejudice. Further, since an appeal of this Order would not be taken in good faith, Kiel is denied leave to appeal *in forma pauperis*. Finally, the captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

**DONE** and **ORDERED** in Dayton, Ohio, this Eighteenth day of December, 2009.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

James P. Kiel  
Counsel of Record